



## Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271  
<http://dnr.state.il.us>

Pat Quinn, Governor  
Marc Miller, Director

January 14, 2010

Mr. George DeLancey  
Regulatory Branch  
Louisville District, Corps of Engineers  
P.O. Box 489  
Newburgh, Indiana 47629-0489

Re: LRL-2009-732

Dear Mr. DeLancey:

Reference is made to the application by Shawneetown Harbor Service, Inc. for a Department of the Army permit authorizing the construction of a towboat dock consisting of a 40' X 230' permanent barge anchored by two 14" spuds driven into the river bottom. The proposed construction is located along the right descending bank of the Ohio River at approximate mile 857.9 in Section 32, Township 9 South, Range 10 East, in Old Shawneetown, Gallatin County, Illinois.

The river reach adjacent to the project has historically supported significant populations of freshwater mussels, including species listed as threatened or endangered at the federal and/or state level. A recent mussel survey conducted at the project site by Mainstream Commercial Divers, Inc. on behalf of the applicant resulted in the collection of 232 mussels representing 14 species, including one specimen of the federally endangered fat pocketbook (*Potamilus capax*), one specimen of the state threatened butterfly (*Ellipsaria lineolata*), and four specimens of the state threatened ebonyshell (*Fusconaia ebena*).

While placement of the spuds that will hold the proposed dock barge in place may cause the mortality of a small number of mussels, a greater concern is the potential for propellor-induced scouring to wash out large areas of substrate along with any mussels that currently inhabit the site. The section view provided in Exhibit 3 of the attachments to the Public Notice indicates there will be little separation between the towboats and the river bottom, particularly in the case of the towboats "Bree Ann" and Caleb Dean" which will dock at the ends of the permanent barge in shallower water nearer shore. Mussels inhabiting the project area may also be subject to direct propellor strikes and towboat groundings.

An additional concern is the proximity of the proposed barge dock to the Old Shawneetown public boat ramp. The ramp provides important access for boaters and anglers using this part of the Ohio River. We believe the proposed dock barge will create unsafe conditions for boaters

utilizing the upstream ramp who, in the event of engine starting difficulties or engine failure,

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could rapidly be carried downstream into moored or maneuvering towboats. The permanent barge will apparently be located just riverward of the lower or "old" ramp, which is still used by many boaters at some river stages, and the barge and moored towboats just offshore may adversely affect future boater access to that part of the facility.

The Department wishes to acknowledge the applicant's efforts in arranging for a mussel survey at the project site. However, given the potential detrimental effects of the proposed dock construction and associated towboat activities on an identified mussel population that supports state and federally listed species, as well as possible conflicts with recreational boaters utilizing the nearby public ramp, we are not able to support the issuance of a DOA permit.

Please note that the Illinois Endangered Species Protection Act [520 ILCS 10, et seq.] provides that the Department may authorize the taking of state listed species incidental to otherwise lawful activities in accordance with Section 10/5.5 and procedures contained in Title 17, Part 1080. These requirements can be viewed on-line at [www.dnr.state.il.us/legal](http://www.dnr.state.il.us/legal). In the event a DOA permit is ultimately granted, the applicant should contact Joe Kath of the IDNR Endangered Species Program at 217-785-8764 to discuss the steps necessary to secure an Incidental Take Authorization prior to beginning construction. In the case of the fat pocketbook, a federally endangered species, consultation with the U.S. Fish and Wildlife Service will also likely be necessary.

Our staff is available to discuss this permit action further at your convenience and that of the applicant. Please contact me at 217-785-4863 if we can be of assistance.

Sincerely,

Robert W. Schanzle  
Permit Program Manager  
Office of Realty and Environmental Planning

RWS:rs 7-10(09)

cc: Shawneetown Harbor Service, Inc, IDNR/OWR (Diedrichsen), IDNR/ORC (Kath, Frankland), IEPA (Yurdin), USFWS (Koch, Mangan), USEPA (Pierard)

This recommendation regarding the issuance/denial of the U.S. Army Corps of Engineers permit by the IDNR,
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Office of Realty and Environmental Planning does not supersede permit decisions made by the IDNR, Office of Water Resources under the Illinois Rivers, Lakes and Streams Act.